

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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PLANS, INC.,

NO. CIV. S 98-266 FCD EFB

Plaintiff,

v.

MEMORANDUM AND ORDER

SACRAMENTO CITY UNIFIED SCHOOL  
DISTRICT, TWIN RIDGES SCHOOL  
DISTRICT,

Defendants.

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This matter is before the court on a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(1) brought by defendant Twin Ridges Elementary School District ("TRESA").<sup>1</sup> By its motion, TRESA seeks to dismiss the instant action against it on the ground there is no longer a "case or controversy" for purposes of Article III of the United States Constitution because as of June 30, 2007, it ceased chartering any Waldorf methods public schools. For the reasons set forth below, TRESA's motion

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<sup>1</sup> Because oral argument will not be of material assistance, the court orders this matter submitted on the briefs. E.D. Cal. L.R. 78-230(h).

is GRANTED.

#### BACKGROUND

In February 1998, plaintiff PLANS, Inc. ("plaintiff" or "PLANS") filed a complaint for declaratory and injunctive relief against Sacramento City Unified School District and TRESA. PLANS sought to enjoin TRESA from operating schools implementing Waldorf methods. (Pl.'s Compl., filed Feb. 11, 1998, ¶ 11.) From the time the complaint was filed until recently, TRESA chartered several schools, including the Yuba River Charter School, that utilized Waldorf methods. (Decl. of Joan Little ["Little Decl."], filed Jan. 22, 2008, ¶ 2.) On or about June 30, 2007, TRESA ceased to be the chartering authority for all such schools. (Little Decl. ¶ 3.) Currently, the Nevada County Office of Education is the chartering authority for the Yuba River Charter School. (Little Decl. ¶ 4.)

#### STANDARD

"The jurisdiction of federal courts depends on the existence of a 'case or controversy' under Article III of the Constitution." GTE California, Inc. v. Federal Communications Comm'n, 39 F.3d 940, 945 (9th Cir. 1994). Generally, a case is moot "when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome." Murphy v. Hunt, 455 U.S. 478, 481 (1982) (quoting U.S. Parole Comm'n v. Geraghty, 445 U.S. 388, 396 (1980)). The court must be able to grant effective relief, otherwise it lacks jurisdiction. GTE California, Inc., 39 F.3d at 945.

However, an otherwise moot case may be heard if it falls within one or more of the recognized exceptions to the mootness

1 doctrine. One such exception, relevant here, is "voluntary  
2 cessation." A defendant's voluntary cessation of allegedly  
3 illegal conduct will not deprive the court of jurisdiction  
4 unless:

5 (1) it can be said with assurance that 'there is no  
6 reasonable expectation' that the alleged violation will  
7 recur, and (2) interim relief or events have completely  
and irrevocably eradicated the effects of the alleged  
violation.

8 County of Los Angeles v. Davis, 440 U.S. 625, 631 (1979)

9 (internal quotations and citations omitted). The "heavy" burden  
10 of making these showings is on the party asserting mootness. Id.

11 **ANALYSIS**

12 TRESA contends plaintiff's case against it is now moot  
13 because TRESA has ceased chartering Waldorf methods public  
14 schools. The court agrees. The central inquiry is whether  
15 effective relief can be granted to PLANS. Cantrell v. City of  
16 Long Beach, 241 F.3d 674, 678 (9th Cir. 2001). The court cannot  
17 enjoin TRESA from operating schools it no longer operates.  
18 Accordingly, the issues are no longer "live," rendering the case  
19 moot.

20 The only question remaining is whether TRESA's actions fall  
21 within the exception to the mootness doctrine for voluntary  
22 cessation. The court finds both conditions for applying the  
23 mootness doctrine have been met, and therefore the exception for  
24 voluntary cessation does not apply.

25 TRESA has met the first condition because there can be no  
26 reasonable expectation it will revive chartering Waldorf methods  
27 public schools. TRESA's superintendent does not indicate any  
28 intention to restart operating such schools, which would require

1 completion of an extensive chartering process under the  
2 California Education Code. See Cal. Educ. Code § 47605 et seq.;  
3 (Little Decl. ¶s 4-6.) Moreover, due to recent amendments to the  
4 law, TRESA is unable to charter any of the subject schools in the  
5 future. See Cal. Educ. Code § 47605(a) (requiring chartered  
6 schools to be located within the geographic boundaries of the  
7 school district). Operation of these school has been taken over  
8 by other entities. PLANS does not dispute these critical facts.  
9 Rather, PLANS argues TRESA has not provided enough evidence to  
10 ensure there is no reasonable likelihood it will revive  
11 operations. The court finds TRESA has proffered sufficient  
12 evidence to show the allegedly wrongful behavior cannot  
13 reasonably be expected to recur.

14 TRESA has also met the second condition because TRESA's  
15 cessation of chartering Waldorf methods public schools has cured  
16 the allegedly injurious effects (i.e. teaching of Waldorf  
17 methods) of which PLANS complains. To the extent PLANS is  
18 concerned about prospective injuries, this case will proceed  
19 against defendant Sacramento City Unified School District. Any  
20 decision the court may make about the illegality of public  
21 entities operating Waldorf methods schools would set a precedent  
22 for preventing such entities from operating Waldorf methods  
23 public schools in the future.


#### 24 CONCLUSION

25 For the foregoing reasons, TRESA's motion to dismiss  
26 plaintiff's complaint against it as moot is GRANTED. TRESA is  
27 hereby dismissed as a party to this action.

1 On February 12, 2008, the court issued an order to show  
2 cause ("OSC") to PLANS' counsel regarding plaintiff's failure to  
3 timely file an opposition or non-opposition to TRESA's motion in  
4 accordance with Local Rule 78-230(c). (Docket #287.) The court  
5 HEREBY DISCHARGES said OSC based on plaintiff's counsel's  
6 response (Docket #290), as counsel explains that he is presently  
7 suffering from severe mental illness. In his response to the  
8 OSC, plaintiff's counsel requests a sixty day stay of the action  
9 in order to permit him time to find substitute counsel for PLANS.  
10 TRESA and remaining defendant Sacramento City Unified School  
11 District oppose the stay (see Docket #s 291, 292.) Because  
12 counsel's request is opposed, the court will not stay the action  
13 at this juncture and directs counsel to formally notice a motion  
14 to stay the proceedings.

15 IT IS SO ORDERED

16 DATED: March 4, 2008.

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20 FRANK C. DAMRELL, JR.  
21 UNITED STATES DISTRICT JUDGE  
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